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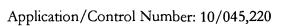
UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	PPLICATION NO. FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,220	-	10/23/2001	Peter Gwyther	JVS110126000	9823
22891	7590	04/01/2004		EXAMINER	
DELIO & I			BAXTER, JESSICA R		
121 WHITN NEW HAVI				ART UNIT	PAPER NUMBER
	ŕ			3731	13

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary			oplication No.	Applicant(s)					
			0/045,220	GWYTHER, PET	ER				
			caminer	Art Unit					
			ssica R Baxter	3731					
The Period for Re	ne MAILING DATE of this communi eply	ication appear	s on the cover sheet wi	th the correspondence ac	ddress				
THE MAII - Extensions after SIX (6 - If the perio - If NO perio - Failure to r Any reply r	TENED STATUTORY PERIOD FOLING DATE OF THIS COMMUNIST of time may be available under the provisions (a) MONTHS from the mailing date of this commod for reply specified above, the maximum state of the specified above.	CATION. of 37 CFR 1.136(a) unication. D) days, a reply with ututory period will ay will, by statute, caus	. In no event, however, may a r in the statutory minimum of thin oply and will expire SIX (6) MON se the application to become AE	eply be timely filed by (30) days will be considered time ITHS from the mailing date of this of BANDONED (35 U.S.C. § 133).	ely. communication.				
Status									
1)⊠ Res	sponsive to communication(s) file	d on 26 Janua	arv 2004.						
•	·		tion is non-final.						
<i>,</i> —	, , , , , , , , , , , , , , , , , , ,								
Disposition (of Claims								
4a) 5)□ Cla 6)⊠ Cla 7)⊠ Cla	 4) Claim(s) 1-21 is/are pending in the application. 4a) Of the above claim(s) 2-13 is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) 1 is/are rejected. 7) Claim(s) 14-21 is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. 								
Application	Papers								
10)☐ The App Rep	specification is objected to by the drawing(s) filed on is/are: olicant may not request that any objected to ath or declaration is objected to	a) accepto ction to the draw the correction	wing(s) be held in abeyar is required if the drawing	nce. See 37 CFR 1.85(a). i(s) is objected to. See 37 C					
Priority unde	er 35 U.S.C. § 119								
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 									
2) Notice of 3) Information	References Cited (PTO-892) Draftsperson's Patent Drawing Review (F on Disclosure Statement(s) (PTO-1449 or (s)/Mail Date		Paper No(Summary (PTO-413) s)/Mail Date Informal Patent Application (PT 	^F O-152)				



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DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on January 26, 2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,511,483 has been reviewed and is NOT accepted.

The disclaimer fee of \$55.00 in accordance with 37 CFR 1.20(d) has not been submitted, nor is there any authorization in the application file to charge a specified Deposit Account or credit card.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. As stated in the previous Office Action, Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,511,483. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim a spinal cord removal tool comprising a motor, a housing, a plurality of blades, and a left and right side adjustment mechanism.



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Allowable Subject Matter

4. Claims 14-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

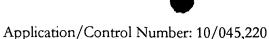
Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R Baxter whose telephone number is 703-305-4069. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on 703-308-2496. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica R Baxter Examiner Art Unit 3731

Hb jrb

> MICHAEL J. MILANO SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 3700